

REQUEST FOR QUALIFICATIONS
FOR
COMMUTER RAIL
STRATEGIC PLANNING CONSULTING SERVICES



July 14, 2006

TABLE OF CONTENTS

PUBLIC NOTICE ii

SCOPE OF SERVICES 1

STATEMENT OF QUALIFICATIONS REQUIREMENTS 5

CONSULTANT QUALIFICATION AND SELECTION 7

PROJECT ADMINISTRATION 9

ADMINISTRATIVE REQUIREMENTS 10

APPENDIX A: Arizona Administrative Code R4-30-301 11

APPENDIX B: MAG Disadvantaged Business Enterprise Program Requirements 14

APPENDIX C: Proposer's Registration Form 16

PUBLIC NOTICE
REQUEST FOR QUALIFICATIONS
FOR
COMMUTER RAIL
STRATEGIC PLANNING CONSULTING SERVICES

The Maricopa Association of Governments (MAG) is seeking Statements of Qualifications from qualified firms or individuals to provide professional services in the development of a Commuter Rail Strategic Plan. Specific expertise is sought in the areas of strategic planning, consensus building, public participation, commuter rail systems planning, and regional transit planning.

This is a multiyear/multiphase project that will be managed by MAG. The successful respondent in this Request for Qualifications (RFQ) process may, at MAG's discretion, also be retained to complete additional phases of this project. Future phases of the project will be the subject of separate contracts to be authorized at a future date by MAG. This first phase of the project will be completed in a maximum of twelve (12) months from the date of the notice to proceed at a cost not to exceed \$300,000.

A proposer's conference will be held at 3:00 p.m. on July 20, 2006, to provide additional information and to accept questions about this RFQ. The conference will be held in the second floor Cholla Room at the MAG Office, 302 North 1st Ave., Phoenix, AZ.

Detailed RFQ requirements may be obtained by contacting the MAG Office at the address indicated below or by visiting the MAG Website at www.mag.maricopa.gov. SOQs will be accepted until 12:00 Noon (Mountain Standard Time) on August 11, 2006, at MAG, 302 N. 1st Ave., Suite 300, Phoenix, AZ, 85003. For further information, please contact Kevin Wallace, MAG Transit Program Manager, by fax at (602) 254-6490 or by e-mail at kwallace@mag.maricopa.gov.

SCOPE OF SERVICES

INTRODUCTION

The purpose of this request is to solicit Statements of Qualifications (SOQ) from consultants to provide professional services in the development of a Commuter Rail Strategic Plan. Specific expertise is sought in the areas of strategic planning, consensus building, public participation, commuter rail systems planning, and regional transit planning. This is a multiyear/multiphase project that will be managed by the Maricopa Association of Governments (MAG). The successful respondent in this Request for Qualifications (RFQ) process may, at MAG's discretion, also be retained to complete additional phases of this project. Future phases of the project will be the subject of separate contracts to be authorized at a future date by MAG. This first phase of the project will be completed in a maximum of twelve (12) months from the date of the notice to proceed at a cost not to exceed \$300,000.

BACKGROUND

The Maricopa Association of Governments is a Council of Governments that serves as the regional agency for the metropolitan Phoenix area. It is comprised of 25 cities and towns, three Indian Communities, and Maricopa County. The Arizona Department of Transportation (ADOT) and the Citizens Transportation Oversight Committee (CTOC) also serve on the Regional Council for transportation related items. MAG provides a regional forum for analysis, discussion and resolution of issues in such areas as transportation, air quality, environment, regional development, and social services.

Continued urban growth in the outlying areas of Maricopa County and nearby Pinal County will dramatically increase traffic on the street and highway systems serving the region. Recent increases in fuel prices, which show no signs of returning to pre-2003 levels, have resulted in substantial increases in transit ridership. With high fuel prices and rapid growth, interest in providing alternatives to the automobile has also grown. The continued development of a balanced transportation system is key in sustaining the economic vitality and high quality of life in the region.

MAG is issuing this RFQ for consulting services to identify priorities and develop an implementation strategy and plan for commuter rail service in Maricopa County and northern Pinal County. This planning process will capitalize on draft results derived from ADOT's State Rail Inventory and Assessment Study, currently underway. In addition, this study will build upon previous technical analyses completed with the 2003 MAG High Capacity Transit (HCT) Plan, which identified over 129 miles of potential commuter rail corridors and provided initial ridership projections. The 2003 HCT Plan also included an assessment of the rail infrastructure that serves the MAG region and provided rough capital investment and operating cost estimates for commuter rail service. The 2003 HCT Plan concluded that commuter rail service was feasible with demand and service levels comparable to commuter rail systems currently in operation in other regions. (The 2003 HCT Plan is available online at: <http://www.mag.maricopa.gov/project.cms?item=474>).

Through a strategic analysis of Strengths, Weaknesses, Opportunities, and Threats (SWOT) this study will identify critical implementation issues for commuter rail. The study will also address how commuter rail fits within the adopted policy framework of the Regional Transportation Plan (RTP) and local land use and transportation plans. (The RTP is available online at: <http://www.mag.maricopa.gov/project.cms?item=411>). In addition, the study will examine how commuter rail can be integrated with other components of the transportation system, including

bus, light rail, transit centers, freeways, airports, and park-and-ride facilities. On a broader scale, the study will ensure that commuter rail service in the metropolitan area does not preclude future options for intercity rail passenger service (e.g., Phoenix to Tucson). Recommendations from the study will identify strategic opportunities for commuter rail service as a high capacity transit option in Maricopa County and northern Pinal County.

This phase of the planning process is not intended to rank individual commuter rail corridors. Rather, the resulting plan will categorize individual corridors based upon their feasibility for implementation (e.g., high, medium, and low feasibility). More technical evaluations, including ridership forecasts and updates to the regional travel demand model, will be completed during a later phase.

GOALS AND OBJECTIVES

The overall goal of the study is to prepare a Commuter Rail Strategic Plan for adoption by the MAG Regional Council. Key project objectives are to:

1. Complete a SWOT Analysis (Strengths, Weaknesses, Opportunities, and Threats) related to the future implementation of commuter rail service.
2. Prepare and implement an outreach program that provides input into the planning process and identifies the level of support for commuter rail among citizens and elected officials.
3. Define options for the shared use of railway corridors and infrastructure while balancing freight and passenger service needs. Develop ongoing dialogue with all railroad companies included within the MAG commuter rail area.
4. Identify potential risk exposure from: a) environmental issues; and b) safety, ownership, and liability issues. Define possible solutions or mitigation strategies.
5. Evaluate opportunities for integrating commuter rail service with existing and future activity centers.
6. Identify current and future connectivity relationships with other modes, including freeways, airports, bus, and light rail.
7. Identify right-of-way needs as part of an overall corridor and station area preservation strategy. Identify additional out-of-service and former railroad right-of-way corridors that may be suitable for commuter rail service.
8. Identify potential funding options and legislative measures to implement commuter rail.
9. Prepare a Commuter Rail Strategic Plan summary and presentation suitable for wide distribution to a general audience.

TASKS

Seven tasks have been identified to carry out the objectives of this study, as outlined below.

TASK 1: DETAILED SCOPE OF WORK

- a. Review and incorporate findings of previous plans and studies.

- b. Assess and refine the goals and objectives of the Commuter Rail Strategic Plan and identify the work tasks necessary to achieve them.
- c. Prepare a detailed explanation of work tasks and workflow relationships, a staff resource plan, and a schedule for the study process.

TASK 2: PLANNING PROCESS COORDINATION AND MONITORING

- a. Coordinate and collaborate with other ongoing MAG, ADOT, Valley Metro/RPTA, METRO, Pinal County, private sector railroad companies, the Arizona Corporation Commission, the Governor's Office, and other relevant studies and planning processes.
- b. Identify and document issues, procedures, methodologies, and findings that require resolution and/or joint application among ongoing studies.
- c. Prepare a project management plan that includes appropriate quality assurance measures.

TASK 3: PUBLIC AND AGENCY INVOLVEMENT

- a. Prepare a public involvement program, taking into account ongoing public involvement in related planning studies and other activities.
- b. Prepare and distribute appropriate public information collateral for the project.
- c. Conduct stakeholder interviews, meetings, and workshops; public meetings; and agency forums to obtain input and present study findings. Prepare presentation materials, provide briefings, and document meeting results.
- d. Provide briefings and presentations at MAG committee meetings and other agency meetings.

TASK 4: SWOT ANALYSIS

- a. Assist stakeholders in conducting a comprehensive SWOT analysis to identify Strengths, Weaknesses, Opportunities, and Threats related to implementing commuter rail service in Maricopa County and northern Pinal County.
- b. For the purposes of the SWOT analysis, stakeholders may include elected officials, the Arizona Corporation Commission, railroad operators, business interests, agency staff, and the public.

TASK 5: IMPLEMENTATION STRATEGY

- a. Assemble all data required to conduct evaluation and prioritization procedures.
- b. Develop an evaluation and prioritization methodology to address key issues identified in the SWOT analysis.
- c. Identify, categorize, and rank issues from the SWOT analysis that would impact the development of commuter rail service. In particular, key issues such as

governance, funding, safety, environmental risks, linkages to other modes, and capacity constraints will be clearly defined and evaluated.

- d. Prepare an analysis of funding options for implementing various levels of commuter rail service.
- e. Provide decision-makers with a comprehensive perspective on the costs, schedules, trade-offs, impacts, and policy implications of alternative implementation approaches.
- f. Based on the SWOT analysis, prepare a phased implementation strategy for future commuter rail service options. The strategy will categorize individual corridors based upon their respective feasibility for implementation, and will identify work to be undertaken in future planning phases.

TASK 6: COMMUTER RAIL STRATEGIC PLAN FOR ADOPTION

- a. Prepare a document to be adopted by the MAG Regional Council, including assembling any supplementary planning studies or technical documents.
- b. Prepare a summary document and presentation directed at a general audience and focusing on the essential features of the Commuter Rail Strategic Plan.

TASK 7: STUDY RECORD

- a. Assemble all final products from the study tasks into a complete study record.

DELIVERABLES

TASK 1: Revised Scope of Work.

TASK 2: Coordination meeting notes; project management plan.

TASK 3: Public Involvement Plan; public information collateral as defined in the revised scope of work (Task 1); stakeholder workshops and meetings; public meetings; agency forums; MAG committee meetings; outreach meetings; public involvement documentation.

TASK 4: Working Paper #1 - SWOT Analysis.

TASK 5: Working Paper #2 - Evaluation and Prioritization Methodology; Working Paper #3 - Commuter Rail Funding Options; Working Paper #4 - Commuter Rail Implementation Strategy.

TASK 6: Commuter Rail Strategic Plan; Plan Summary and Presentation; CD containing the Commuter Rail Strategic Plan Document and Summary with an easy to navigate table of contents page that provides direct links to key sections of project documents.

TASK 7: Study Record.

STATEMENT OF QUALIFICATIONS REQUIREMENTS

STATEMENT OF QUALIFICATIONS (SOQ) CONTENT

The SOQ shall include the following items in the same order as they are listed below. Failure to provide the requested information may result in rejection of the SOQ. Brief and concise submittals are encouraged. The total number of pages shall not exceed 30, excluding Registration Forms (Item 10) and Resumes (Item 11).

1. **Identification.** A title sheet or equivalent which includes:
 - a. Title of this solicitation.
 - b. Consultant name and business address.
 - c. Name, title, mailing address, and telephone/fax numbers of the principal contact.
2. **Table of Contents.**
3. **Background of Firm.** Provide background information regarding offeror, including:
 - a. Number of employees (by type of professional expertise and role in the company)
 - b. Length of time the offeror has been in business
 - c. Number of affiliated offices (if applicable)
4. **Organization and Approach.** Provide a brief statement describing the proposer's organization and outlining its approach to achieve the objectives identified in this solicitation. This statement should briefly illustrate the proposer's overall project understanding and specific areas of expertise.
5. **Proposed Scope of Work and Schedule.** Provide a scope of work and schedule to complete the tasks identified in this solicitation (the maximum duration for this project is twelve months). Include an organizational chart that identifies all individuals in the SOQ. Summarize team member involvement by task in a spreadsheet or tabular format. Provide an overview of the firm's quality assurance procedures.
6. **Project Team Availability.** Provide a table depicting each team member's availability throughout the duration of the project.
7. **Recent Project Examples and References.** Provide examples and references from successful, recent experience in providing consultant services in the areas of strategic planning, consensus building, public participation, commuter rail systems planning, and regional transit planning. Preference will be given to offerors with demonstrated experience and expertise in successfully performing work of a similar or related nature.

Provide the following information for each project example:

- a. Brief project description.
 - b. Project initiation and completion dates.
 - c. Roles of Respondent team members in the project.
 - d. Name and address of client.
 - e. Name and telephone number of the individual in the client organization that had management responsibility for the project.
8. **Subconsultants.** The name, address, telephone number, and primary contact for subconsultants included in the project (if any). For each subconsultant, provide at least two references which include:

- a. Brief project description.
 - b. Project initiation and completion dates.
 - c. Roles of Respondent team members in the project.
 - d. Name and address of client.
 - e. Name and telephone number of the individual in the client organization that had management responsibility for the project.
9. **Additional Information.** Provide any additional information that the offeror believes would be useful to MAG in evaluating the offeror's proposal.
10. **Registration Form.** All firms submitting a Statement of Qualifications on this project will be required to include a completed Proposer's Registration Form (See Appendix C) with their SOQ. In addition, a completed Proposer's Registration Form must be included with the SOQ for any subconsultants used on this project.
11. **Resumes.** Provide resumes of each person listed in item five (5) indicating education and experience relevant to the areas of expertise. References should be grouped by firm.

The proposal shall be signed by a representative or officer authorized to bind the offeror. Individuals of the offering organization qualified to negotiate a contract with the Maricopa Association of Governments based on the proposal shall be identified by name, title, address, and telephone number.

In accordance with A.A.C. R2-7-104, an offeror may designate as confidential portions of an SOQ. A summary index of any such designation must be included in the Table of Contents or cover letter in the SOQ documents. If the Maricopa Association of Governments determines to disclose the information provided, the Maricopa Association of Governments shall inform the offeror in writing of such determination.

SOQ DELIVERY AND OPENING

Ten copies of the SOQ, entirely on letter size paper, must be submitted by 12:00 Noon Mountain Standard Time, August 11, 2006, to:

Maricopa Association of Governments
Attention: Kevin Wallace
302 North 1st Avenue, Suite 300
Phoenix, Arizona 85003

Timely receipt of SOQs will be determined by the date and time the SOQ is received at MAG. Postmarks or receipt of SOQs at any other MAG office will not be considered timely. Therefore, hand delivery is encouraged to assure timely receipt.

No SOQs will be accepted after the time indicated. SOQs received after the deadline will be stamped for time and date and returned unopened. All material submitted by this deadline in response to this solicitation becomes the property of the Maricopa Association of Governments and will not be returned.

Any questions regarding this Request for Qualifications should be directed via mail, fax or email to the attention of Kevin Wallace: MAG, 302 North 1st Avenue, Suite 300, Phoenix, Arizona 85003. Fax: (602) 254-6490, Email: kwallace@mag.maricopa.gov.

CONSULTANT QUALIFICATION AND SELECTION

MAG will utilize a two-phased process to select a consultant for this project: Phase 1) SOQ evaluation and consultant qualification; and Phase 2) consultant selection.

PHASE 1 - SOQ EVALUATION AND CONSULTANT QUALIFICATION

All Statements of Qualifications submitted will be evaluated by a group consisting of MAG staff and member agencies. The committee will review the SOQ's to identify qualified firms, based on the following evaluation criteria:

1. Experience of the Project Team in strategic planning, consensus building, public participation, existing relationships with railroad operators, recent and relevant knowledge of freight/commuter rail system integration, regional transit planning, and preparation of plan documents for a wide audience.
(35 points)
2. Proposed Scope of Work and Project Approach.
(20 points)
3. Availability of personnel throughout the project effort.
(15 points)
4. Ability and commitment to complete the project within the specified time period, meet all submittal deadlines, and ensure quality control.
(10 points)
5. Demonstrated ability to communicate complex concepts clearly and concisely.
(10 points)
6. Overall quality of the submittal, including clarity, organization, and attention to detail.
(10 points)

PHASE 2 - CONSULTANT SELECTION

To assist in the selection of a CONSULTANT, selected firms submitting SOQs may be interviewed by a group consisting of MAG staff and member agencies. However, MAG reserves the right to select a CONSULTANT from the list of qualified respondents identified in Phase 1, without conducting interviews.

If in-person or videoconference interviews are deemed necessary, they may be scheduled for the week of August 28, 2006. It is anticipated that firms selected for interviews will be contacted approximately one week prior to the in-person interview date. MAG strongly suggests that the CONSULTANT Project Manager and key members of the project team be present at the in-person or videoconference interview.

1. **References.** As part of its final selection, MAG reserves the right to contact a reasonable number of references from among those provided by the offeror.
2. As provided by A.A.C. R2-7-331, discussions may be conducted with offerors who submit SOQs determined likely to be selected for the MAG Commuter Rail Strategic Planning Consulting Services contract. The selection of a firm will be based solely on

qualifications and exclude consideration of price or fee. MAG will negotiate compensation with the Respondent determined to be the most qualified and, if a fair and reasonable compensation cannot be negotiated with that Respondent, MAG will initiate negotiations with the next most qualified Respondent.

3. MAG reserves the right to:
 - a. Cancel this solicitation.
 - b. Reject any and all proposals and re-advertise.
 - c. Select the proposal(s) that, in its judgment, will best meet its needs.
 - d. Negotiate a contract that covers selected parts of a proposal, or a contract that will be interrupted for a period or terminated for lack of funds.
4. **MAG Approval.** A recommendation of the selected consultant for the MAG Commuter Rail Strategic Planning Consulting Services contract shall be made by the MAG Executive Director to the MAG Regional Council. The decision of the Regional Council is final.

PROJECT ADMINISTRATION

PROJECT MANAGEMENT

The Project Manager is Kevin Wallace, Transit Program Manager, who will provide general direction as necessary and be responsible for decisions pertaining to work under this contract.

ADMINISTRATION OF THE PROJECT

The administrative management of the project will be performed by MAG. The MAG Project Manager will provide guidance to the CONSULTANT and evaluate the deliverables. Monthly progress reports will be submitted to the Project Manager. It is anticipated that this project will be completed within the time contracted with the CONSULTANT.

PAYMENT

This Request for Qualifications is for a cost-reimbursement plus fixed fee contract.

MAG shall retain ten percent (10%) from each invoice as final payment until satisfactory completion of the project. Final payment shall be made as soon as possible after acceptance of the final product and invoice.

INVOICING REQUIREMENTS

All invoices for this contract shall be delivered in person or sent by mail addressed as follows:

MAG Fiscal Services
Attention: Accounts Payable
Maricopa Association of Governments
302 N 1st Avenue
Phoenix, Arizona 85003

ADMINISTRATIVE REQUIREMENTS

1. An audit examination of the consultant's records may be required by the ADOT Office of Audit and Analysis or the Maricopa Association of Governments Fiscal Services Department.
2. MAG reserves the right to:
 - a. Cancel this solicitation.
 - b. Reject any and all proposals and re-advertise.
 - c. Select the proposal that will, in its judgment, best meet MAG's needs, despite any differences in estimated project costs between the proposer and all others.
 - d. Negotiate a contract that covers selected parts of a proposal, or a contract that will be interrupted for a period, or canceled, for lack of funds.
3. Each firm submitting a proposal is required to certify that it will comply with, in all respects, the rules of professional conduct set forth in A.C.R.R. R4-30-301 (see Appendix A), which is the official compilation of Administrative Rules and Regulations for the State of Arizona.
4. Each firm must document within its proposal any potential conflicts of interest. A conflict of interest shall be cause for disqualifying a CONSULTANT from consideration or terminating a contract if the conflict should occur after the contract is made. A potential conflict of interest includes, but is not limited to:
 - a. Accepting an assignment where duty to the client would conflict with the CONSULTANT'S personal interest, or interest of another client.
 - b. Performing work for a client or having an interest which conflicts with this contract.
 - c. Employing personnel who worked for MAG or one of its member agencies within the past three years.

MAG will be the final determining body as to whether a conflict of interest exists.

5. The firms that are selected will be required to comply with Titles VI and VII of the Civil Rights Act of 1964. The Consultants will comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR Part 60). The Consultants will also be required to comply with all applicable laws and regulations of the U.S. Department of Transportation.
6. The Disadvantaged Business Enterprise (DBE) requirements in the Code of Federal Regulations Title 49, Part 26 will apply to this contract. See Appendix B, MAGs Key DBE Regulatory Requirements. A complete copy of MAGs DBE program is available on request.

APPENDIX A

ARIZONA ADMINISTRATIVE CODE R4-30-301

CH. 30

BOARD OF TECHNICAL REGISTRATION

R4-30-301

ARTICLE 3. REGULATORY PROVISION

R4-30-301. Rules of Professional Conduct

All registrants shall comply with the following rules of professional conduct:

1. A registrant shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration, certification, or subpoena.
2. A registrant shall not engage in fraud, deceit, misrepresentation or concealment of material facts in advertising, soliciting, or providing professional services to members of the public.
3. A registrant shall not knowingly commit bribery of a public servant as proscribed in A.R.S. § 13-2602, knowingly commit commercial bribery as proscribed in A.R.S. § 13-2605, or violate any federal statute concerning bribery.
4. A registrant shall comply with state, municipal, and county laws, codes, ordinances, and regulations pertaining to the registrant's area of practice.
5. A registrant shall not violate any state or federal criminal statute involving dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, bribery, or breach of fiduciary duty, if the violation is reasonably related to the registrant's area of practice.
6. A registrant shall apply the technical knowledge and skill that would be applied by other qualified registrants who practice the same profession in the same area and at the same time.
7. A registrant shall not accept an assignment if the duty to a client or the public would conflict with the registrant's personal interest or the interest of another client without full disclosure of all material facts of the conflict to each person who might be related to or affected by the project or engagement in question.
8. A registrant shall not accept compensation for services related to the same project or professional engagement from more than one party without making full disclosure to all parties and obtaining the express written consent of all parties involved.
9. A registrant shall make full disclosure to all parties concerning:
 - a. Any transaction involving payments to any person for the purpose of securing a contract, assignment, or engagement, except for actual and substantial technical assistance in preparing the proposal; or

- b. Any monetary, financial, or beneficial interest the registrant may hold in a contracting firm or other entity providing goods or services, other than the registrant's professional services, to a project or engagement.
- 10. A registrant shall not solicit, receive, or accept compensation from material, equipment, or other product or services suppliers for specifying or endorsing their products, goods or services to any client or other person without full written disclosure to all parties.
- 11. If a registrant's professional judgment is overruled or not adhered to under circumstances where a serious threat to the public health, safety, or welfare may result, the registrant shall immediately notify the responsible party, appropriate building official, or agency, and the Board of the specific nature of the public threat.
- 12. If called upon or employed as an arbitrator to interpret contracts, to judge contract performance, or to perform any other arbitration duties, the registrant shall render decisions impartially and without bias to any party.
- 13. To the extent applicable to the professional engagement, a registrant shall conduct a land survey engagement in accordance with the April 12, 2001 Arizona Professional Lands Surveyors Association (APLS) Arizona Boundary Survey Minimum Standards, as adopted by the Board on June 15, 2001, the provisions of which are incorporated in this subsection by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include any later amendments or editions.
- 14. A registrant shall comply with any subpoena issued by the Board or its designated administrative law judge.
- 15. A registrant shall update the registrant's address and telephone number of record with the Board within 30 days of the date of any change.
- 16. A registrant shall not sign, stamp, or seal any professional documents not prepared by the registrant or a bona fide employee.
- 17. Except as provided in subsections (18) and (19), a registrant shall not accept any professional engagement or assignment outside the registrant's professional registration category unless:
 - a. The registrant is qualified by education, technical knowledge, or experience to perform the work; and
 - b. The work is exempt under A.R.S. § 32-143.
- 18. A registered professional engineer may accept professional engagements or assignments in branches of engineering other than that branch in which the registrant has demonstrated proficiency by registration but only if the registrant has the education, technical knowledge, or experience to perform such engagements or assignments.
- 19. Except as otherwise provided by law, a registrant may act as the prime professional for a given project and select collaborating professionals; however, the registrant shall perform only those professional services for which the registrant is qualified by registration to perform and shall seal and sign only the work prepared by the registrant or by the registrant's bona fide employee.

20. A registrant who is designated as a responsible registrant shall be responsible for the firm or corporation. The Board may impose disciplinary action on the responsible registrant for any violation of Board statutes or rules that is committed by a non-registrant employee, firm, or corporation.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.C. 2798, effective August 7, 2004 (Supp. 04-2).

APPENDIX B

MAG KEY DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM REQUIREMENTS FOR CONSULTANT CONTRACTS

The Disadvantaged Business Enterprise (DBE) requirements in the Code of Federal Regulations Title 49, Part 26 will apply to this contract. A complete copy of MAG's DBE Program is available by request to Rebecca Kimbrough, DBE Liaison Officer, at 602/254-6300.

The consultant will agree to ensure that DBEs, as defined in 49 CFR 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement.

DBE Participation Goal and Reporting:

The DBE participation goal for this contract is 11 percent of the contract award. DBEs used for this contract must be certified by the Arizona Department of Transportation or the City of Phoenix prior to the award of the contract. A list of Certified DBE organizations is available at the Civil Rights Office of the Arizona Department of Transportation or the City of Phoenix.

The consultant will be required to report monthly on: (1) the utilization of any subconsultants, and (2) any payments made to subconsultants (DBEs and non-DBEs).

Requirement for Proposal:

All firms proposing on this project will be required to include a completed Proposer's Registration Form (See Appendix C) with their proposal. In addition, a completed Proposer's Registration Form must be included with the proposal for any subconsultants used on this project.

General Requirements for Proposals and Contract:

All proposers will be required to include the following information in their proposal and contract:

- a. A clear and concise description of the work that each DBE will perform
- b. The dollar amount of the participation of each DBE firm participating
- c. Written documentation of the proposer's commitment to use a DBE subconsultant(s) whose participation it submits to meet a contract goal
- d. If the contract goal is not met, evidence of good faith efforts to meet the goal

Consultant and Subconsultant Assurance:

MAG will incorporate into each contract it signs with a Prime Consultant, and require in each subcontract (that a Prime Consultant signs with a subconsultant), the following assurance:

The consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant shall carry out applicable requirements of 49 CFR 26 in the award and administration of USDOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as MAG deems appropriate.

Prompt Payment Provision:

The Prime Consultant will pay subconsultants for satisfactory performance of contracts no later than fourteen (14) calendar days from the date that the Prime Consultant receives payment from MAG. The Prime Consultant will also return retainage payments to the subconsultant within fourteen (14) calendar days from the date of satisfactory completion of work.

Prime Consultants must:

Provide the subconsultant with the name, address and phone number of the person to whom all invoices/billings and statements must be sent.

Pay subconsultants and suppliers within fourteen (14) days of receipt of payment from MAG.

Stipulate the reason(s) in writing to the subconsultant or supplier and to MAG for not abiding by the prompt payment provision. Possible reasons include:

1. Failure to provide all required documentation
1. Unsatisfactory job performance
2. Disputed work
3. Failure to comply with other material provisions of the contract
4. Third-party claims filed or reasonable evidence that a claim will be filed
5. Reasonable evidence that the contract cannot be completed for the unpaid balance of the contract sum or a reasonable amount for retainage.

Subconsultants must:

Submit invoices or billing statements to the Prime Consultant's designated contact person in an appropriate format and in a timely manner. The format and the timing of billing statements must be specified in the contract(s) between the Prime Consultant and the subconsultant(s).

Notify MAG in writing of any potential violation of the prompt payment provision.

MAG will implement appropriate mechanisms to ensure compliance with the requirements of all program participants. The mechanisms MAG may use include, but are not limited to:

1. MAG will notify subconsultants (DBE and Non-DBEs) of the Prime Consultant's responsibility for prompt payment and encourage subconsultants to notify MAG in writing with any possible violations to the prompt payment mechanism.
2. Withholding payment from Prime Consultants who do not comply with the prompt payment provision noted above, where it has been determined by the MAG DBELO that delay of payment to the subconsultant is not justified.
3. Stopping work on the contract until compliance issues are resolved.
4. Terminating the contract.

MAG will verify that the work committed to DBEs, at the time of the contract award, is actually performed by DBEs. This will be accomplished by:

1. Requiring Prime Consultants to report subconsultant(s) (DBE and Non-DBEs) work performed in each monthly progress report along with an indication of the number of hours worked, any costs incurred and the amounts paid to the DBE(s).
1. Ensuring that DBE participation is credited toward the overall goal or contract goal(s) only when payments are actually made to DBE firms.

APPENDIX C

PROPOSER'S REGISTRATION FORM

All firms proposing as Prime Consultants or subconsultants on Maricopa Association of Governments (MAG) projects must be registered. **Please complete this form and return it with your proposal.**

If you have any questions about this registration form, please call (602) 254-6300. A listing of all proposer's for this project will be available on the business day following the submittal deadline.

1. GENERAL INFORMATION:

Name of Firm: _____
Street Address: _____
City, State, ZIP: _____
Mailing Address: _____
City, State, ZIP: _____
Telephone Number: _____
Fax Number: _____
E-mail address: _____
Web address: _____
Year firm was established: _____

Check all that apply:

Is this firm a Prime Consultant? _____
Is this firm a sub-consultant? _____ Identify specialty: _____
Is this firm a certified DBE? _____ If so, by whom? _____

2. FINANCIAL INFORMATION

Firm's annual gross receipts (average of last 3 years):

_____ <\$300,000
_____ \$300,000 - \$599,999
_____ \$600,000 - \$999,999
_____ \$1,000,000 - \$4,999,999
_____ >\$5,000,000

Information will be maintained as confidential to the extent allowed by federal and state law.

The undersigned swears that the above information is correct. Any material misrepresentation may be grounds for terminating any contract which may be awarded, and for initiating action under federal and state laws concerning false statements.

Name,

Title